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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,185	01/16/2002	Masakatsu Kondo	020015	2846
23850	7590	05/24/2004		
ARMSTRONG, KRATZ, QUINTOS, HANSON & BROOKS, LLP 1725 K STREET, NW SUITE 1000 WASHINGTON, DC 20006				
			EXAMINER WEEKS, GLORIA R	
			ART UNIT 3721	PAPER NUMBER / 3

DATE MAILED: 05/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/046,185

Applicant(s)

KONDO ET AL.

Examiner

Gloria R Weeks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2004.
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-8 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 5-8 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to the Information Disclosure Statement received on January 23, 2004.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Rogalski et al. (USPN 5,964,687).

In reference to claims 6-8, Rogalski et al. discloses a container plug attaching for attaching a plug (28) having a flange (54) to a container (16), the device including an anvil (12) and a sealing member (62) which cooperate to clamp therebetween for sealing the container edge portion (22) and the flange (54) by pressing, the container plug attaching device comprising: a rotary shaft (58) carrying the anvil (12) extending radially therefrom and carrying a plug-engaging projection (52) projecting from a clamping face (50) of the anvil (12); drive means (56) operative to rotate the rotary shaft (58) on an intermittent basis, stopping the anvil (12) at a sealing position with respect to the container (16) outlet opening and opposite the sealing member (62); supply means for supplying plugs (28) to the anvil (12) including a plug transport chute (46) and reciprocable delivery means (40) operable in timed sequence with rotation of the rotary shaft (58) to transfer a plug (28) to the plug-engaging projection (52) of the anvil (12) during movement of the anvil (12) toward the sealing position, the chute (46) having a delivery

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opening (column 3, lines 16-21) disposed adjacent head (44) of a reciprocating plug transfer member (40) and being disposed intermediate the plug-engaging projection (52) on the anvil (12) when the anvil (12) is rotatably disposed in a plug-receiving position adjacent the delivery opening of the chute (46); means (42) for reciprocatively extending the head (44) of the transfer member (40) through the opening of the chute (46) to the anvil projection (52); and means (60) actuable when the anvil (12) is in the sealing position for operating the sealing member (62) to attach the plug (28) to the container (16); a container transport conveyor (14) provided below the rotary shaft (58) and extending in a direction transverse to the rotary shaft (58; figure 2).

Claim Rejections - 35 USC § 103

4. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rogalski et al. (USPN 5,964,687) in view of Kawajiri et al. (USPN 4,788,811).

Regarding claim 5, Rogalski et al. discloses a spout attaching device with an anvil operable in timed sequence with a plug transfer member, but fails to disclose the plug transfer member including a suction head. Kawajiri et al. teaches a spout attaching device including suction transfer means (71) used to align a spout (2) to a position to be sealed (90) to a container (1; figure 9-10). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the transfer member of Rogalski et al. to include the suction means of Kawajiri et al. for the purpose of securely aligning the plug with the transfer member (Kawajiri et al.-column 17, lines 6-10).

Conclusion


5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Refer to attachment for notice of references cited and recommended for consideration based on their disclosure of limitations of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gloria R Weeks whose telephone number is (703) 605-4211. The examiner can normally be reached on 7:30 am - 6:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on (703) 305-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gloria R Weeks
Examiner
Art Unit 3721


grw
April 20, 2004


SCOTT A. SMITH
PRIMARY EXAMINER